(i) a vehicle identification sub-block hierarchically nested in the public block of data and comprising a plurality of data items wherein the data items are selected from the group consisting of manufacturer, mode, model year and style of the vehicle,

(ii) a vehicle detail sub-block hierarchically nested in the public block of data, wherein the vehicle detail sub-block comprises:

(1) a standard sub-block hierarchically nested in the vehicle detail sub-block and comprising a plurality of standard categories, wherein each standard category is hierarchically nested in the standard sub-block and comprises a plurality of data items relating to standard equipment available on a vehicle, and

(2) an option sub-block hierarchically nested in the vehicle detail sub-block and comprising a plurality of option categories, wherein each option category is hierarchically nested in the option sub-block and comprises a plurality of data items relating to a particular category of optional equipment desired on a particular vehicle; and

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(b) a private block of data comprising a plurality of data items relating to the customer who is ordering the vehicle.

70. (New) A storage medium according to claim 69, wherein the communicatively coupled memory is located within a remote computing appliance, coupled to the computing system through transmission means.

REMARKS

This response is submitted to an Office Action received May 22, 2002. In this response, claims 48-56 are selectively amended, as above, to remove lingering informalities and to clarify the claim language. New claims 57-70 have been introduced to capture subject matter to which Applicant is entitled. Support for the amendments and the new claims can be found in the original specification, claims and/or figures and, in this regard, no new matter has

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been introduced. In view of the foregoing amendments and the following remarks, reconsideration of the above referenced application is respectfully requested.

35 USC §101 Rejections

In **paragraph 7** of the Action, claims 48-56 were rejected because the claimed invention is directed (arguendo) to non-statutory subject matter, citing *Warmerdam* as support.

Without adopting the position of the Action, in an effort to conclude prosecution of this matter, Applicant has amended select ones of claims 48-56, as above, to clarify claim language. In this regard, amended claim 48, for example, is directed to a vehicle description language (VDL) employed by and between computing systems to communicate information associated with a vehicle in support of application(s) executing thereon, the language employing a hierarchical data structure comprising a public block of data to communicate vehicle-centric information, and a private block of data to communicate customer-centric information between such computing system(s) and/or application(s). In this regard, amended claim 48 is not directed to a data structure per se, but rather to a vehicle description language including an innovative data structure to communicate information between computing system(s) in support of one or more application(s).

Applicant notes that the rejected claims in the *Warmerdam* case were literally directed to a data structure, without further limitation regarding how the data structure was used by, e.g., a computing system (see, e.g., 33. F.3d at 1360-1364). In later opinions, e.g., *Lowry*, 32 USPQ.2d at 1034, 1035, the CAFC concludes that

> 'the invention as defined by the claims requires that the information be processed not by the mind but by a machine, the computer.' Lowry's data structures, which according to

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> Lowry greatly facilitate data management by data processing systems, are processed by a machine. Indeed, they are not accessible other than through sophisticated software systems...
>
> More than mere abstraction, the data structures are specific electrical or magnetic structural elements in a memory. According to Lowry, the data structures provide tangible benefits: data stored in accordance with the claimed data structures are more easily accessed, stored, and erased. Lowry further notes that, unlike prior art data structures, Lowry's data structures simultaneously represent complex data accurately and enable powerful nested operations. In short, Lowry's data structures are physical entities that provide increased efficiency in computer operation.

Similarly, the data structure comprising the vehicle description language (VDL) of, e.g., amended claim 48, facilitates the communication of vehicle as well as customer information by and between application(s) executing on communicatively coupled computing systems. Moreover, according to one aspect of the invention, while the vehicle information is carried within a *public* section of the VDL data structure, the customer information is secured within a *private* section of the VDL data structure. In this regard, the data structure has a physical impact on one or more computing systems participating in the communication of such information. That is, as in *Lowry*, the VDL of amended claim 48 has a physical impact (e.g., on a memory) of one or more computing system(s) and is, in this regard, clearly statutory subject matter per the definition provided by the CAFC in, e.g., *Lowry*.

Accordingly, Applicant respectfully submits that claims 48-56, as amended, and new claims 59-70 represent statutory subject matter and request that the rejections thereto be withdrawn.

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35 USC §112, second paragraph, Rejections

In **paragraphs 8-11**, claims 48-56 were rejected as being indefinite for failing to particular point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Action rejected the claim(s) as it is not clear (arguendo) how the vehicle description language is related to a data structure.

In response, Applicant has amended claim 48 to overcome the cited rejection. In view of the foregoing amendments, Applicant respectfully requests that the §112, second paragraph, rejection of claims 48-56, as amended, be withdrawn.

35 USC §103(a) Rejections

In **paragraphs 12-20** of the Action, claims 48-56 were rejected as being obvious over *Draft Proposal: An Industry Standard Data Format for the Export and Import of Automotive Customer Leads* in view of a patent issued to Stupek (USP 6,131,118). In response, Applicant traverses the rejection of such claims.

Draft Proposal

Applicant respectfully submits that the *Draft Proposal* merely provides one example of a data format that can be used in the import and export of customer leads. In this regard, the proposed data format includes information regarding the vehicle and a prospective customer (see, pages 5-11). The *Draft Proposal* is silent, however, as to the maintaining the customer-centric information in a private, or secure, section of the data format.

Stupek Jr., et al.

The *Stupek* reference is merely directed to a flexible display of management data in a programmable event driven processing system. In this regard, Stupek is silent as to a vehicle

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description language for communicating information between application(s) on remote computing systems. Although an Appendix of the *Stupek* reference does employ a public delimiter and a private delimiter in information to be processed for display, *Stupek* fails to disclose or suggest that such delimiters affect the processing of the information contained therein.

At the onset, Applicant respectfully submits that the proposed combination is not a proper combination of references. Specifically, the Examiner has failed to provide a suggestion or motivation for the combination ***from the prior art itself***. As indicated above, the *Draft Proposal* presents the contact information in a standard element of the data format, without regard to whether certain data (e.g., private customer data) is more sensitive than other data (e.g., public or vehicle-centric information). Thus, the *Draft Proposal* fails to disclose a motivation or suggestion that the customer-centric information be maintained in a secure (i.e., private) element of the data structure.

The *Stupek* reference is not directed to the communication of information between computing systems, but to the display of management information on a computing system. Therefore, it also does not provide a motivation or suggestion for the proposed combination. As is well-established, it is not proper for the Examiner to pick through the prior art, combining documents without a motivation or suggestion for the combination that comes from the prior art itself. As indicated here, the Examiner is simply using Applicant's application as a blueprint and combining references that may include specific elements of Applicant's claimed subject matter, but without a basis for making the proposed combination other than the Applicant's own teaching. This is clearly not proper.

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Claim 48, as amended, is directed to a vehicle description language (VDL) employed by and between communicatively coupled computing systems to communication information associated with a vehicle in support of application(s) executing thereon, the VDL employing a hierarchical data structure comprising:

> (a) a public block of data, having starting and ending delimiters that identify the beginning and end of the block of data, wherein the public block of data comprises:
>
> (i) a vehicle identification sub-block... and comprising a plurality of data items wherein the data items are selected from the group consisting of manufacturer, model, model year, and style of the vehicle,
>
> (ii) a vehicle detail sub-block...wherein the vehicle detail sub-block comprises:
>
> (1) a standard sub-block... [that] comprises a plurality of data items relating to standard equipment available on a vehicle, and
>
> (2) an option sub-block...comprising a plurality of option categories...; and
>
> (b) a private block of data comprising a plurality of data items relating to the customer who is ordering the vehicle.

That is, the hierarchical data structure of the VDL provides a standardized data structure to facilitate the communication of not only vehicle information, but a secure means of communicating customer information. Applicant respectfully submits that neither the Draft Proposal nor the *Stupek* references, alone or in combination, disclose or suggest that which is presented in amended claim 48.

As introduced above, the *Draft Proposal* fails to disclose or suggest a VDL comprising a data structure that employs a public element to communicate vehicle information, and a private element for communicating customer-centric information. Rather, as presented above, the *Draft Proposal* merely treats *all* information the same.

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With regard to the *Stupek* reference, while the reference includes the terms public and private, they are used within the context of an Appendix, without any definition or context. In this regard, the Stupek reference provides a non-enabling disclosure insufficient for purposes of establishing a prima facie case of obviousness. Moreover, insofar as Stupek is drawn to a management server for a network that facilitates and performs programmable event driven processing, it is clear from this context that the use of public data blocks and private data blocks is different than that of the claimed invention. That is, *Stupek* is not directed to the communication of vehicle and customer information in public and private data blocks, respectively, between communicatively coupled computing systems.

Accordingly, Applicant respectfully submits that the combination of the *Draft Proposal* and the *Stupek* reference is improper, and even if one were to combine such references, the combination nonetheless fails to disclose or suggest that which is claimed in amended claim 48. Accordingly, Applicant respectfully requests that the §103(a) rejection of claim 48 be withdrawn.

In **paragraphs 21-27**, the Action rejects claims 48-56 as being obvious over a patent issued to Kozol, et al. (USP 5,113,341) in view of the *Draft Proposal* and the *Stupek* references. In response, Applicant respectfully traverses the rejection of such claims.

As above, Applicant respectfully submits that the combination of references is improper. That is, the motivation to combine the references as suggested in the Action must stem from the references themselves. The recitation in the Action of the mere advantages gained from such combination is not enough, as there must be support in the references themselves to combine the references as suggested.

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Insofar as the references fail to provide such motivation, Applicant respectfully submits that such combination is improper, and respectfully requests that the §103(a) rejections based thereon be withdrawn.

In addition to the foregoing, without the need to further characterize the Kozol reference, and without adopting the Examiner's characterization thereof, Applicant respectfully submits that the Kozol reference is not cited as curing and does not, in fact, cure the limitations identified above. That is, the Action acknowledges that the Kozol reference fails to disclose or suggest the use of public and private data elements within a vehicle description language data structure, as claimed in amended claim 48. Insofar as the Draft Proposal and Stupek fail to cure this limitation, Applicant respectfully submits that claim 48, as amended is patentable over the cited references.

Applicant respectfully submits that claims 58 and 69 include features similar to those identified above in amended claim 48, albeit in accordance with their respective embodiments. Accordingly, Applicant respectfully submits that claims 58 and 69 are likewise patentable over the cited references.

Applicant notes that claims 47-56, 58-68 and 70 are each dependent on patentable base claims 48, 58 and 69, respectively. In this regard, in additional to any independent basis for patentability, Applicant respectfully submits that claims 47-56, 58-68 and 70 are similarly patentable over the cited references by virtue of at least such dependency. Accordingly, Applicant respectfully requests that the §103(a) rejections of claims 47-56 be withdrawn.

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Conclusion

In light of the foregoing amendments and remarks, Applicant respectfully asserts that claims 48-70, as selectively amended, are in condition for allowance, and earnestly awaits notice thereof. **In an effort to expedite prosecution of this matter, the Examiner is invited to call the undersigned counsel for the Applicant to discuss any further issues preventing allowance of the currently pending claims.**

Please charge any shortages and credit any overages to our Deposit Account No. 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Dated: September 26, 2002

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Appendix A:

Version of the Claims with Markings

In the Claims:

Please amend the claims as follows:

48. (Amended) A vehicle description language (VDL) employed by and between communicatively coupled computing systems to communicate information associated with a vehicle in support of application(s) executing thereon, the VDL employing a hierarchical data structure [for storing a description of a vehicle [in a first and a second computer memories and for transmitting the description of the vehicle between the first and second computer memories via a computer network, wherein the vehicle description language is created in a hierarchical data structure] comprising:

(a) a public block of data, having starting and ending delimiters that identify the beginning and end of the block of data, wherein the public block of data comprises:

(i) a vehicle identification sub-block hierarchically nested in the public block of data and comprising a plurality of data items wherein the data items are selected from the group consisting of manufacturer, mode, model year and style of the vehicle,

(ii) a vehicle detail sub-block hierarchically nested in the public block of data, wherein the vehicle detail sub-block comprises:

(1) a standard sub-block hierarchically nested in the vehicle detail sub-block and comprising a plurality of standard categories, wherein each standard category is hierarchically nested in the standard sub-block and comprises a plurality of data items relating to standard equipment available on a vehicle, and

(2) an option sub-block hierarchically nested in the vehicle detail sub-block and comprising a plurality of option categories, wherein each option category is hierarchically nested in the option sub-block and comprises a plurality of data items relating to a particular category of optional equipment desired on a particular vehicle; and

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[(iii)] (b) a private block of data comprising a plurality of data items relating to the customer who is ordering the vehicle.

49. The vehicle description language of claim 48 wherein each sub-block contains a starting delimiter and an ending delimiter, wherein the starting delimiter identifies the block or sub-block within which the sub-block is nested.

50. The vehicle description language of claim 48 wherein each category consists essentially of a starting delimiter and an ending delimiter identifying the sub-block within which the category is nested.

51. The vehicle description language of claim 48 wherein each data item consists essentially of a starting delimiter and an ending delimiters identifying the block, sub-block or category within which the data item is nested.

52. The vehicle description language of claim 48 wherein the standard categories are selected from the group consisting of comprise exterior, interior, mechanical, safety, fuel mileage, rating, and combinations thereof.

53. The vehicle description language of claim 48 wherein the option categories are selected from the group consisting of emissions, engine, transmission, preferred equipment groups, appearance package, tires, seat type, seat trim, paint additional options, and combinations thereof.

54. The vehicle description language of claim 48 wherein the public block further comprises a color sub-block nested within the public block, wherein the color sub-block having nested therein categories comprises color selections and color combinations.

55. The vehicle description language of claim 48 wherein the data items in the private block comprise the customer's name, address and phone number.

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56. (Amended) The vehicle description language of claim [47] 48 wherein the language is implemented with Extensible Markup Language (XML).

57. (New) The vehicle description language of claim 48, wherein the vehicle description language is employed in communications between at least two communicatively coupled computing systems.

58. (New) A propagated signal composed of one or more vehicle descriptor language (VDL) datagram(s), sent from one computing system to another computing system to communicate information regarding a particular vehicle, the signal datagram(s) comprising:

(a) a public block of data, having starting and ending delimiters that identify the beginning and end of the block of data, wherein the public block of data comprises:

(i) a vehicle identification sub-block hierarchically nested in the public block of data and comprising a plurality of data items wherein the data items are selected from the group consisting of manufacturer, mode, model year and style of the vehicle,

(ii) a vehicle detail sub-block hierarchically nested in the public block of data, wherein the vehicle detail sub-block comprises:

(1) a standard sub-block hierarchically nested in the vehicle detail sub-block and comprising a plurality of standard categories, wherein each standard category is hierarchically nested in the standard sub-block and comprises a plurality of data items relating to standard equipment available on a vehicle, and

(2) an option sub-block hierarchically nested in the vehicle detail sub-block and comprising a plurality of option categories, wherein each option category is hierarchically nested in the option sub-block and comprises a plurality of data items relating to a particular category of optional equipment desired on a particular vehicle; and

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(b) a private block of data comprising a plurality of data items relating to the customer who is ordering the vehicle.

59. (New) The propagated signal of claim 58, wherein each sub-block contains a starting delimiter and an ending delimiter, wherein the starting delimiter identifies the block or sub-block within which the sub-block is nested.

60. (New) The propagated signal of claim 58 wherein each category consists essentially of a starting delimiter and an ending delimiter identifying the sub-block within which the category is nested.

61. (New) The propagated signal of claim 58, wherein each data item consists essentially of a starting delimiter and an ending delimiters identifying the block, sub-block or category within which the data item is nested.

62. (New) The propagated signal of claim 58, wherein the standard categories are selected from the group consisting of comprise exterior, interior, mechanical, safety, fuel mileage, rating, and combinations thereof.

63. (New) The propagated signal of claim 58, wherein the option categories are selected from the group consisting of emissions, engine, transmission, preferred equipment groups, appearance package, tires, seat type, seat trim, paint additional options, and combinations thereof.

64. (New) The propagated signal of claim 58, wherein the public block further comprises a color sub-block nested within the public block, wherein the color sub-block having nested therein categories comprises color selections and color combinations.

65. (New) The propagated signal of claim 58, wherein the data items in the private block comprise the customer's name, address and phone number.

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66. (New) The propagated signal of claim 58, wherein the language is implemented with Extensible Markup Language (XML).

69. (New) A storage medium comprising content which, when executed, causes a computing system to generate a vehicle descriptor language (VDL) datagram including information to describe an automobile for transmission to a communicatively coupled memory, the VDL datagram comprising:

(a) a public block of data, having starting and ending delimiters that identify the beginning and end of the block of data, wherein the public block of data comprises:

(i) a vehicle identification sub-block hierarchically nested in the public block of data and comprising a plurality of data items wherein the data items are selected from the group consisting of manufacturer, mode, model year and style of the vehicle,

(ii) a vehicle detail sub-block hierarchically nested in the public block of data, wherein the vehicle detail sub-block comprises:

(1) a standard sub-block hierarchically nested in the vehicle detail sub-block and comprising a plurality of standard categories, wherein each standard category is hierarchically nested in the standard sub-block and comprises a plurality of data items relating to standard equipment available on a vehicle, and

(2) an option sub-block hierarchically nested in the vehicle detail sub-block and comprising a plurality of option categories, wherein each option category is hierarchically nested in the option sub-block and comprises a plurality of data items relating to a particular category of optional equipment desired on a particular vehicle; and

(b) a private block of data comprising a plurality of data items relating to the customer who is ordering the vehicle.

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70. (New) A storage medium according to claim 69, wherein the communicatively coupled memory is located within a remote computing appliance, coupled to the computing system through transmission means.

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